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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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SECURITIES INVESTOR PROTECTION )  
CORPORATION, ) Adv. Pro. No. 08-01789 (BRL)  
                                       )  
                                       Plaintiff-Applicant, ) SIPA Liquidation  
                                       )  
v. ) (Substantively Consolidated)  
                                       )  
BERNARD L. MADOFF INVESTMENT )  
SECURITIES LLC, )  
                                       Defendant.  
\_\_\_\_\_  
                                       )  
IN RE: )  
                                       )  
BERNARD L. MADOFF, )  
                                       )  
                                       Debtor. )  
                                       )  
\_\_\_\_\_  
                                       )

**RECOMMENDATION OF THE  
SECURITIES INVESTOR PROTECTION CORPORATION  
IN SUPPORT OF FIRST AND FINAL APPLICATION OF WINDELS MARX LANE &  
MITTENDORF, LLP, COUNSEL TO ALAN NISSELSION, THE CHAPTER 7 TRUSTEE  
FOR THE ESTATE OF BERNARD L. MADOFF, FOR ALLOWANCE AND PAYMENT  
OF INTERIM COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Windels Marx Lane & Mittendorf, LLP (“Windels” or “Counsel”), Counsel to Alan Nisselson, the Chapter 7 Trustee (“Chapter 7 Trustee”) for the Estate of Bernard L. Madoff

(“Madoff”) which has been substantively consolidated with the liquidation proceeding of Bernard L. Madoff Investment Securities LLC (“BLMIS” or “Debtor”) under the Securities Investor Protection Act, 15 U.S.C. section 78aaa et seq. (“SIPA”), has filed its first and final application for allowance of compensation and reimbursement of expenses. Pursuant to section 5(b)(5)(C) of SIPA, 15 U.S.C. §78eee(b)(5)(C), SIPC submits this recommendation in support of the application. The grounds for this recommendation are as follows:

1. The application involves the period from April 21, 2009 through June 8, 2009 (“Compensation Period”). As detailed in the application, Windels rendered services to the administration of the Madoff estate during this time. The Madoff estate was substantively consolidated into the BLMIS liquidation proceeding by Order of this Court, dated June 9, 2009.
2. SIPC, by its staff, has carefully evaluated the application for compensation. This has included analyzing the detailed report of time spent and services rendered as set forth in the application and the exhibit thereto. The detailed report of services reflects a total of 621.3 hours expended by Counsel in the performance of its duties. In reviewing the application, SIPC considered the requirements and standards for an application set forth in 15 U.S.C. §78eee(b)(5), the relevant sections of the Bankruptcy Code, and the Administrative Order re Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases. SIPC believes that the application substantially complies with the applicable law and this District’s Administrative Order.
3. Based upon an average hourly rate of \$321.10, Counsel asserts the discounted reasonable value of its services is \$199,500.00. Counsel agreed with SIPC to discount its normal billing rates by 10%. Counsel reports that this discount resulted in a voluntary reduction during the Compensation Period of \$26,387.75. In addition, Counsel voluntarily adjusted its fees by

writing off \$37,989.75. Counsel requests an allowance of the asserted discounted value, or a total of \$199,500.00. Counsel also seeks reimbursement of \$2,770.46 in expenses.

4. Section 5(b)(5)(A) of SIPA, 15 U.S.C. § 78eee(b)(5)(A), provides that the court shall "grant reasonable compensation for services rendered . . . by a trustee, and by the attorney for such a trustee, in connection with a liquidation proceeding." SIPA §5(b)(5)(C), 15 U.S.C. §78eee(b)(5)(C), sets forth the standard for the Court's determination of application for allowances of compensation and reimbursement in SIPA cases. The section provides:

Whenever an application for allowances is filed pursuant to subparagraph (B), SIPC shall file its recommendation with respect to such allowances with the court prior to the hearing on such application and shall, if it so requests, be allowed reasonable time after such hearing within which to file a further recommendation. In any case in which such allowances are to be paid by SIPC without reasonable expectation of recoupment thereof as provided in this chapter and there is no difference between the amounts requested and the amounts recommended by SIPC, the court shall award the amounts recommended by SIPC. In determining the amount of allowances in all other cases, the court shall give due consideration to the nature, extent, and value of the services rendered, and shall place considerable reliance on the recommendation of SIPC. [emphasis added].

5. In a SIPA proceeding, administrative costs and expenses, which include trustee and counsel fees and expenses, are to be borne by the general estate. SIPA §5(b)(5)(E), 15 U.S.C. §78eee (b)(5)(E). To the extent the estate is not sufficient, SIPC advances funds for their payment. SIPA §§ 5(b)(5)(E), 6(e), and 9(b)(2), 15 U.S.C. §§ 78eee(b)(5)(E), 78fff(e), and 78fff-3(b)(2).

6. In this case, the Court has been advised that the Trustee has "no reasonable expectation that the general estate will be sufficient to make any distribution to general creditors or pay any administrative expenses." (First Application of Irving H. Picard, Trustee at 16, ¶37.) Thus, any allowances for fees and expenses of Counsel will be paid by SIPC without any recoupment by SIPC. Furthermore, there is no difference between the amounts requested by Counsel and the amounts recommended by SIPC. Consequently, SIPA provides that this Court shall award Counsel

the amounts recommended by SIPC.

7. SIPC supports the first and final application of Windels.

WHEREFORE, SIPC respectfully recommends that: (1) final compensation in the amount of \$199,500.00 and (2) reimbursement of \$2,770.46 in expenses, as sought by Counsel, be allowed.

Respectfully submitted,

Of Counsel:

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Washington, D.C.